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COUNTY OF LOUDOUN
GRADING PERMIT SURETY BOND
(EROSION AND SEDIMENT CONTROL)

| | | | | | | | | | |
|---|---|------------|-------------|------------|--|--|--|--|--|
| BOND NO. | DATE BOND EXECUTED: | | | | | | | | |
| <u>PRINCIPAL(S)/CO-PRINCIPAL(S)</u> (Legal Name(s), Status, and Business Address(es) and <u>Telephone Number(s)</u>) (Hereinafter "Principal" whether one or more than one) | TYPE OF ORGANIZATION: (Check One) () Individual () Partnership or Joint Venture () Limited Liability Company () Corporation () Other (Specify) _____ STATE OF INCORPORATION OR ORGANIZATION: | | | | | | | | |
| SURETY(IES): (Name(s) and Business Address(es) and <u>Telephone Number(s)</u>) A.M. Best No. _____ A.M. Best Rating: _____ A.M. Best F.S.C. _____ (Hereinafter "Surety" whether one or more than one) | SUM OF BOND <table style="width: 100%; border-collapse: collapse;"><tr><td style="border-bottom: 1px solid black; width: 25%; text-align: center;">Million(s)</td><td style="border-bottom: 1px solid black; width: 25%; text-align: center;">Thousand(s)</td><td style="border-bottom: 1px solid black; width: 25%; text-align: center;">Hundred(s)</td><td style="border-bottom: 1px solid black; width: 25%;"></td></tr><tr><td style="border: 1px solid black; height: 20px;"></td><td style="border: 1px solid black; height: 20px;"></td><td style="border: 1px solid black; height: 20px;"></td><td style="border: 1px solid black; height: 20px;"></td></tr></table> Date of Grading Permit Application: _____ Project Name: _____ _____ _____ | Million(s) | Thousand(s) | Hundred(s) | | | | | |
| Million(s) | Thousand(s) | Hundred(s) | | | | | | | |
| | | | | | | | | | |

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal and Surety hereto recite and declare that:

1. We are held and firmly bound to the obligee Board of Supervisors of Loudoun County, Virginia (hereinafter called "**County**"), in the sum written above in lawful money of the United States of America, to be paid to the County, its successors or assigns, for the payment whereof Principal(s), Co-Principal(s) and Surety(ies) bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by this Bond.

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2. The condition of this Bond is that if the Principal shall in every respect discharge its obligations under the Grading Permit Application identified above, which Grading Permit Application is incorporated herein by reference, then this Bond shall be void; otherwise, this Bond shall remain in full force and effect until released by the County.

3. Surety expressly WAIVES any right to receive notice, review, approve any revisions to the plans, profiles, and specifications referred to in the Grading Permit Application and no such revision shall in any way affect the obligation of the Surety under this Bond.

4. Surety shall be deemed to consent to any extension of time granted to Principal to permit performance of the obligations of the Grading Permit Application, whether or not Surety receives notice of such extension of time, and the liability of Surety under this Bond shall not be discharged or affected by any such extension of time.

5. DEFAULT:

A. Default may be deemed to have occurred on the part of the Principal if Principal shall fail to complete its obligations under the Grading Permit Application within the time set forth therein or any time extension thereof;

B. Default shall be deemed to have occurred on the part of the Principal prior to the expiration of such time period, or time extension, if, in the judgment of the Director of Building and Development ("B&D"), the Principal has:

- i. Abandoned the performance of its obligations under the Grading Permit Application; or
- ii. Renounced or repudiated its obligations under the Grading Permit Application; or
- iii. Demonstrated through insolvency, or otherwise, including the voluntary filing of a bankruptcy, that its obligations under the Grading Permit Application cannot be completed within the time allotted under the Grading Permit Application. Should the Applicant file bankruptcy, it shall provide notice of filing and obtain Bankruptcy Court permission to maintain any bonds, including this one, in place with the County.

C. Default shall be deemed to have occurred on the part of the Principal if Principal shall fail to renew this bond or to have this bond reissued prior to the completion of the Improvements covered by the Grading Permit Application.

D. The County may elect to provide Principal 30 days to cure any default with the Notice of Default.

E. In the event of default, the County may terminate whatever rights the Principal may have to construct or correct construction of facilities.

6. In the event of default by the Principal, the County shall send a Notice of Default to the Principal which may include the 30 day time period to cure the default. A copy of the Notice of Default will be sent to the Surety. Should the Principal fail to cure the default in the time allotted, the County through its Director of Building and Development or other agent, shall give written notice of same to the Surety. In the event of such default and notice, the Surety shall have either of the following options:

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A. Within 21 days of receipt of the default notice, Surety shall pay over the full face value sum of the Bond to the County or such lesser sum as the Director of Building and Development may determine in his sole discretion, and thereafter be relieved of further liability under this Bond. If this option is selected by Surety, then the County will take over or relet all or any part of the work required by the Grading Permit Application but not completed, and will complete the same to the extent of available sums. The cost and expenses of completing the work shall include all items set forth in paragraph 7(B) of this Bond as the measure of damages. If these funds are not enough to complete the work, then the County may proceed against the Principal for any difference. If there are any funds left which are not necessary for completion of the work, then the County will remit this excess to Surety after work is completed.

B. Within 21 days of receipt of the default notice, Surety shall give written notice to the County that it will assume the Grading Permit Application and the obligations of the Principal and shall complete the Grading Permit Application according to its terms and provisions within 180 days of said notice or such other term as may be approved by County and thereafter be relieved of further liability under the terms of this Bond. In the event that Surety elects this option and then fails to faithfully perform all or any part of the work or should it unnecessarily delay completion of all or any part of the work, then the County may proceed as provided in paragraph 6 of this Bond.

C. As used in this Bond, completion of the work specifically includes performance of every obligation of the Principal under the Grading Permit Application.

D. The County shall not be required to institute suit against Principal as a precondition to seeking recovery from Surety.

7. Should Surety fail to elect either option in paragraphs 6(A) and (B), above, within 21 days of receipt of default notice, or upon election of either option should then fail to perform, in either such event, then the County may:

A. Take over or relet all or any part of the work not completed and complete the same for the account and at the expense of the Principal and Surety, who shall be jointly and severally liable to the County for the costs incurred in completion, including all items set forth in paragraph 7(B) of this Bond as the measure of damages chargeable against Principal and Surety for their breach; or

B. Bring suit, action, or proceeding to enforce the provisions of this Bond. In the event that any such suit, action, or proceeding is brought by the County, it is expressly agreed and understood that, regardless of when the breach of the underlying Grading Permit Application occurs, or the breach of the obligations of this Bond, the measure of damages recoverable shall be computed as the costs of completion or correction, or both, of the work required by the Grading Permit Application (1) at the time the work is actually completed and/or corrected to local and state approval and acceptance or (2) at the time of final judgment of a Court of competent jurisdiction; it is further expressly agreed and understood that the measure of damages shall include expenses attributable, but not limited, to administrative costs, litigation costs, attorney's fees, maintenance, deterioration, inflation, and any cost increases arising from delay occasioned by litigation, action, or proceedings necessary to enforce the provisions of this Bond, and delays by Surety under paragraph 6(B) of this Bond.

C. Should the County complete the work, the County shall not be bound by the Principal's approved construction plans if unforeseen conditions require the County to deviate from the

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approved plans. Such deviations shall be reasonable with regard to costs, time, and exigency and shall be at the sole discretion of the Director of Building and Development.

8. Nothing in this Bond shall be construed as creating an obligation upon the County to pay for the completion or correction of the work guaranteed under the provisions of this Bond.

9. By signatures hereto the Principal and the Surety do hereby expressly WAIVE any objection that they, or either of them, might interpose to the authority of the County to require each and every provision of the foregoing Bond.

10. If any provision of this Bond is held to be illegal, invalid, or unenforceable, or is found to be against public policy for any reason, such provision shall be fully severable and this Bond shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never been part of this Bond, and the remaining provisions of this Bond shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision, or by its severance from this Bond.

11. The failure or refusal of the County to take any action, proceeding, or step to enforce any remedy or exercise any right under the Grading Permit Application or the taking of any action, proceeding, or step by County, acting in good faith upon the belief that same is permitted, shall not in any way release Principal or Surety, or any of them, or their respective executors, administrators, successors or assigns from liability under this Bond. Surety hereby WAIVES notice of any amendment, indulgence, or forbearance, made, granted or permitted by the County.

12. In any action or proceeding initiated in connection with this Bond and any and all obligations arising hereunder, the venue shall be the County of Loudoun, Virginia, and it is hereby further understood and agreed that this Bond shall be governed by the laws of the Commonwealth of Virginia, both as to interpretation and performance.

13. All notices sent to the Principal and Surety shall be sent to the addresses set forth on page 1 of 7 of this bond unless said Principal or Surety notify the Director of Building and Development in writing of any change. If an address of either Principal or Surety as shown on the signature page hereof is different from the address for that party as shown on page 1 of 7, notices shall be effective if sent to either address. If the addresses of any Principal or Surety change, the said Principal or Surety shall immediately notify the Director of Building and Development of such change. Failure to notify the Director of Building and Development of any change in address is deemed to be a waiver of any requirement of notice under this Bond to the Principal and Surety. All written notice to the County under this Bond shall be sent certified or registered mail, return receipt requested and addressed to the Director of Building and Development, with a copy to Bonds Management, Building and Development. However, any notice that may be required pursuant to Va. Code Ann. 49-25, as amended, shall be given to the above and to the Chairman of the Board of Supervisors and the County Attorney.

[REMAINDER OF THIS PAGE PURPOSELY BLANK. SIGNATURE PAGES FOLLOW.]

Bond No. _____

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IN WITNESS WHEREOF, the parties hereto have caused this Grading Permit Application to be executed, under seal, as of the day and year on the date set forth above.

PRINCIPAL(S) / CO-PRINCIPAL(S)

TYPED, PRINTED NAME:

SIGNATURE: _____ (SEAL)

NAME AND TITLE: _____
(Typed/Printed)

SIGNATURE: _____ (SEAL)

NAME AND TITLE: _____
(Typed)

STATE OF _____
COUNTY OF _____, to wit:

I, _____,
a Notary Public in and for the State and County aforesaid, do hereby certify that

and _____
as _____
and _____,
respectively of the _____,
whose names are signed to the foregoing, this day personally appeared before me in my State and County
aforesaid and acknowledged their signatures affixed above, and the Corporate Seal as the genuine seal of
the said corporation.

Given under my hand this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

My Notary Registration Number: _____

Bond No. _____

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CORPORATE SURETY

NAME, ADDRESS, AND
TELEPHONE NUMBER:

STATE OF INCORPORATION OR ORGANIZATION:

LIABILITY LIMIT: _____

SIGNATURES:

1. _____(SEAL)

2. _____(SEAL)

NAME(S) AND TITLE(S) (Typed/Printed):

1. _____

2. _____

STATE OF _____
COUNTY OF _____, to wit:

I, _____,
a Notary Public in and for the State and County aforesaid, do hereby certify that

and _____
as _____
and _____,
respectively of the _____,
whose names are signed to the foregoing, this day personally appeared before me in my State and County
aforesaid and acknowledged their signatures affixed above, and the Corporate Seal as the genuine seal of
the said corporation.

Given under my hand this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

My Notary Registration Number: _____

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Countersigned by Virginia Resident Agent: **[REQUIRED]** unless current Certificate of Good Standing and certificate to transact surety business in Virginia has been filed with and approved by the County Attorney. Address must be a deliverable street address (not a P.O. Box) within the Commonwealth of Virginia.]

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Signature: _____ (SEAL)

Name, Title, Business Address

and Telephone Number (Typed/Printed)

STATE OF _____
COUNTY OF _____, to wit:

The foregoing signature was acknowledged before me this _____ day of _____,
20____, by _____
on behalf of the corporation.

Notary Public

My Commission Expires: _____

My Notary Registration Number: _____